

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct Access
Pursuant to Assembly Bill 1X and Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

JOINT NOTICE OF EX PARTE MEETING

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November 20, 2006

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OF THE STATE OF CALIFORNIA**

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JOINT NOTICE OF EX PARTE MEETING

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, the Modesto Irrigation District, Merced Irrigation District, and Northern California Power Agency (NCPA) hereby file this Joint Notice of Ex Parte Meeting. The named parties had an ex parte meeting with Stephen St. Marie, advisor to Commissioner Bohn, on Thursday, November 16, 2006. The meeting took place at the Commission offices at 505 Van Ness Avenue, San Francisco, California, at approximately 10:35 am and lasted for approximately forty minutes.

Present at the meeting were Mr. St. Marie, Joy Warren, Senior Staff Attorney, for the Modesto Irrigation District, Dan Carroll, counsel for Merced Irrigation District and Modesto Irrigation District, and Susie Berlin, counsel for NCPA.

The purpose of the meeting was to discuss Draft Resolution E-3999 (Draft Resolution). Ms. Warren, Mr. Carroll and Ms. Berlin began the meeting by explaining the interest of each of their clients with regard to the cost responsibility surcharge (CRS). Ms. Berlin also emphasized that the publicly owned utilities (POUs) are not interested in prolonging this proceeding, and are looking for resolution of the billing and collection issue, but want to insure that what is finally adopted is both legal and practicable.

Mr. Carroll commended the Draft Resolution's conclusion that PG&E could not terminate natural gas service to POU customers that may fail to pay the CRS, noting that there is no relationship between gas service and the CRS, and that the record is devoid of any legal or policy justification to terminate natural gas service for a totally unrelated cost that is not linked to the provision of any service from the investor owned utility (IOU). On this issue, the Draft Resolution should not be changed.

Ms. Warren explained why the Draft Resolution fails to properly address a "New Party" or "Change of Party," as that term is used in the advice letters at issue. A new customer has no way of knowing that the obligation even exists, as that customer had no part

in the original switch from IOU to POU service, and are already paying an equitable share of the total “energy crisis” related costs. Because the charge is based on something other than a related benefit, it amounts to an illegal tax. There is no showing that the new customer is legally obligated to pay for the CRS, and the Draft Resolution erroneously analogizes the new party to the new MDL customer. The legal charges of billing and collecting the CRS from these new party customers have never been addressed, and in fact, the first time the issue arose was when PG&E filed its advice letter. Despite the fact that billing and collection issues have been *discussed* before this time, the advice letter process is the first opportunity for the Commission to actually *address* the matters, which is why something like this has not been addressed before.

Ms. Berlin noted that there has been no showing by the IOUs that the billing and collection procedure set forth in the advice letters is reasonable. The POUs are not seeking to have the CRS obligation excused if the costs of billing and collection are too great. However, there needs to be a showing that what is proposed is just and reasonable in light of the fact that these charges have never before been collected from this class of customers, and we are not merely addressing an instance where the IOU adds a new line item to its already established billing procedures.

Mr. Carroll also noted that the Draft Resolution should be clarified to address the fact that customer usage information is not the property of the POU, and that the POUs may only provide this information with the consent of the customers. Furthermore, the Draft Resolution should also clarify that the usage information may be provided to the IOU directly from the MDL customer.

The party representatives also responded to inquiries from Mr. St. Marie. There were no written materials provided, but at Mr. St. Marie’s request, copies of the comments and reply comments filed by Merced and Modesto Irrigation District and NCPA were forwarded electronically after the meeting.

November 20, 2006

Respectfully submitted,

/s/ C. Susie Berlin

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **JOINT NOTICE OF EX PARTE MEETING** on all known parties to R.02-01-011 by transmitting an e-mail message with the document attached, to each party named in the official service list, last revised November 8, 2006. For those parties that did not provide an email the document was served by first-class mail.

Executed this 20th day of November, 2006.

/s/ Katie McCarthy
Katie McCarthy